

**JEFFERSON COUNTY COMMISSIONERS  
COURTHOUSE, BOX H  
BOULDER, MT 59632  
PHONE 406-225-4025  
FAX 406-225-4148**

KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
October 2, 2007**

**Present:** Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Matt Johnson, County Attorney; Cathi Bond, Facilities Manager; Kellie Doherty, Personnel Officer; Ken Vivrette, Joe Steiner, Marga Lincoln, Jan Anderson, Bruce and Jackie Wagner

**MINUTES**

Commissioner Weber moved to approve the minutes of September 11. Commissioner Lythgoe seconded. The motion carried.

**REPORTS**

Receipt of September Clerk and Recorder fees report.

**CALENDAR REVIEW**

10/03 Meeting with Department of Revenue – 9:30  
10/04 North end metal mines grant committee – Clancy – 6:30  
10/08 Holiday – county offices closed

**ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS**

Matt Johnson, County Attorney, stated that he will try to give reports to the Commission weekly. He has been contacted by the Montana City Volunteer Fire Department to help get compliance with sprinkler system installation in the Montana City Ranchettes Commercial Subdivision. Part of the final plat approval is that they require in their covenants installation of sprinkler system. He will send a letter to each of the businesses asking that a sprinkler system be installed at construction.

Matt stated that he has had union negotiations regarding deputy clerks. He understands that the Commissioners have no problem with an MOU being issued regarding this. he is working with  
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Steve Bullock on that and they hope to have something completed in the next week or so.

Matt stated that he has an issue on ex-parte communications regarding subdivisions. Was able to find a Lewis & Clark County ex-parte resolution regarding this, which is a part of their subdivision regulations. He presented a copy to each of the Commissioners and asked them to consider this. Urged caution in speaking to the press and discussing subdivisions and personal opinions. It is best to leave communication with the press up to the planning department to deal with. It gives us an out if we have a policy. This will be on a future agenda. Commissioner Lythgoe asked if there is something in particular that has prompted this. Matt stated that it has been in the back of his mind. In the last several months there have been several issues. It even comes down to as simple an issue of Joe Citizen coming to a road meeting and wanting to talk about an issue; they can refer to the policy in place and direct him to the Planning Department.

Matt stated that he has two criminal trials, one of them a rape trial, coming up, and he will be focusing all of his attention on this. He also will have attempted deliberate homicide case that will be filed in the next few days.

Road issues – the alley in Basin was cleared on Friday and this issue is cleaned up. Lower Whitetail, not sure what the road name is – he needs input from the Commission as to whether we support the landowner in regards to the Forest Service's objection to moving the road, which we designate as a county road, off of this person's property. This needs to be discussed in a road meeting or a regular Commission meeting. The attorneys are asking if we will support them on this issue. At the time of the meeting, he will give his input on that. The County is in litigation with Joe Schmaus on an unnamed road above the Hill Ranch. Joe claims that it is a county road, but Matt stated that to date, he has found no petition for the road. We do have maps that may indicate a road, but it is in a different location and isn't designated as a county road. Matt stated that he is hoping that we can get a court order ruling that this is not the right legal mechanism to have this declared a county road. Matt stated that he has presented correspondence regarding an issue on Travis Creek regarding a landowner who is claiming that an encroachment is preventing him safe passage onto the county road. The landowner has requested that the Commission deal with this, so this should be scheduled for discussion. Commissioner Lythgoe stated that Joe has researched this, and feels that what encroachment is there is not inhibiting safe passage. Matt stated that, by statute, a resident has the option to have gripe heard by Commission if not happy with what he and Joe Carter found.

Matt stated that he doesn't want to deal with this at this time, but we are going to have to discuss annexation in the near future. Commissioner Weber asked if they have indicated they are ready to talk about this; he thought they wanted to put this off for a while. Matt stated that both he and Dave Neilson felt it best to wait until after the interchange is in. He feels that it is the right time to have a discussion with them again. Commissioner Lythgoe stated that he would suggest that post trial, Matt's office start discussion with the City, with the understanding that Jefferson County has a seat at the table as it relates to annexation. It is worth a sit-down discussion, but he doesn't think that it will go anywhere until they realize that Jefferson County has jurisdictional equality on all things, not just planning and MOUs. They can make a decision as to whether to annex or not, and we can agree or disagree. Matt asked if the Commission feel that a scoping meeting would be wise with area residents to get their feelings. Commissioner Weber asked if he would prefer this prior to a meeting with the City of Helena. Matt stated that it

might be wise to have at least in conjunction. They need to discuss if there is even an area that the Commission would consider for annexation.

Commissioner Notbohm stated that just before the meeting, he was asked to sign the claims; he is uncomfortable with this. He hasn't been signing them for a while now, because he feels that they aren't being done in the proper manner; he knows that they aren't. He brought this to Commissioner Lythgoe's attention that the claims aren't being read, but just signed. For a while they were calling out the claims and reading what they were, but then went back to just signing. He brought his concern up again to Commissioner Weber, and they started calling them out again, but it has been months since that has happened. He stated that they literally go through the claims in five minutes, and they never read them. He wants it made public; he doesn't want to be made to look bad when it is known that he has not been signing claims. The proper way to do this is to read out what the claim is for, pass it around, and then sign it. The way that it has been going for some time is that are merely passed on to each other, we don't even read them off or look at them. Commissioner Weber stated that he looks at each claim. Commissioner Lythgoe also stated that he reads each claim.

### **CORRESPONDENCE**

A letter from Boyd Andrew was received with the service provider declaration form. Commissioner Lythgoe moved to sign Commissioner Weber seconded. The motion carried.

A letter from RMDC was received regarding a MOA for continuation of Tri-County Mental Health Services. Commissioner Lythgoe noted that Lewis and Clark County and St. Peter's Hospital have committed funds, and asked if we have been asked to contribute anything towards this. Commissioner Weber stated that we have discussed \$10,000, but nothing has been decided at this time. This will need to be on a future agenda. Commissioner Notbohm asked if money we give to RMDC already would go towards this project. Commissioner Weber stated that this is different. Commissioner Lythgoe moved to authorize Commissioner Weber to sign agreement. Commissioner Weber seconded. The motion carried.

### **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

#### **DISCUSS AND DECIDE ON LAND SWAP WITH WAGNERS CONSIDERING NEW APPRAISAL AND INSPECTION**

Commissioner Weber stated that there has been a new appraisal and inspection done. They have previously discussed the inspection, but the appraisal got to the Commission after the last meeting. Commissioner Weber read the appraisal stating that market value of the property is \$40,000. Commissioner Lythgoe stated that he studied the appraisal and compared it to the previous one. He feels that this is a much more detailed and probably more accurate appraisal. It went into much more detail and he feels that it is a much better appraisal. Bruce Wagner stated that he noticed in the inspection report, saw some small items in there. One that was addressed at the last meeting was regarding the air conditioning drain being vented into crawlspace versus into the septic system. He called Intermountain Heating who installed the system. If you drain into septic, you open a whole other can of worms, with the option of sewer

gases backing up into system. What the State of Montana has done in similar circumstances is to install a French drain, which is an easy fix. Commissioner Weber stated that a French drain is basically a gravel filled hole that will allow the water to perk into the ground easier. He asked if they gave any indication of the cubic feet needed in this instance. Bruce stated that they indicated that something the size of a five-gallon bucket would be more than adequate.

Commissioner Notbohm stated as far as the inspection report, he feels that there are a lot of other issues that haven't been addressed - the roof, insulation, rain gutters, weight load on the roof and the venting of the roof. He stated that he also read the appraisal. It was based on a couple different things. Based on the inspection report, there are a lot of things to be considered. The appraiser based part of the appraisal on this being a one unit lot, but it is actually two units, and would be worth more if done on a two-lot basis and sold individually. The lots are currently recorded as a single site and not able to be sold separately. He feels that this property is worth a lot more than what he is stating here. He has written up two protests, one as a tax payer and one as a Commissioner. He stated that he has some real problems with the whole process that has taken place here. He never felt that this has been dealt with properly. He stated that Commissioner Weber asked at a meeting several weeks ago if he felt that something inappropriate has been done. He feels that what has happened is beyond inappropriate, and it amazes him about what is going on here. We are here to protect the interests of the taxpayers of Jefferson County and this whole thing and process is a travesty. He also protests the sale based on the inspection; this hasn't been dealt with. There are a lot of inadequacies in the building. He feels that there are a lot of things that will have to be dealt with regarding ADA, different than what Mr. Wagner has to deal with, to make it suitable for use by the county.

Commissioner Notbohm stated that he also wants to officially complain again about the first appraisal. It was never stamped in and put through the mail. He stated that he also feels that it was highly inappropriate that Mr. Wagner hired our appraiser to appraise our land. He stated that the biggest thing that he has with this is that there is no stamp-in date on the document. July 31<sup>st</sup> was when the other two Commissioners approved the sale. He saw the appraisal a couple days before that meeting. When he asked how long the document had been in the office, he was told five or six weeks. This is a legal document; this is in kind to US mail. When it comes into the Commission office, it becomes public knowledge. It was withheld from him and from the public for six weeks. This is highly inappropriate. Commissioner Weber asked how it was withheld from him; if he requested it and was refused. Commissioner Notbohm stated that it was never stamped in and passed through the mail, as is the norm. This should have been over on the Clerk and Recorder's counter for public inspection. Then when he found out that Mr. Wagner hired our appraiser, this is highly inappropriate. This whole process, all he was asking the Commissioners to do is follow the process. This is wrong, this is illegal. Commissioner Notbohm stated that he knows that he is not a part of this Commission, but as long as he is here, he is at least going to be treated to the right to look things over. This is why he doesn't do claims any more. The way we conduct business in this Commission is awful. Commissioner Weber asked if either he or Commissioner Lythgoe had signed off on the document.

Commissioner Notbohm stated that Commissioner Weber knows that there isn't a sign-off from any of them. Commissioner Weber stated that this is correct; he and Commissioner Lythgoe weren't hiding anything from him. Commissioner Notbohm stated that the fact of the matter is that the decision to move the property, which just amazed him because we could use that property, into a land deal such as this – someone had to make a decision. Has to assume that

illegal meetings took place, or one Commissioner took it upon himself to decide that we were going to sell that property and he didn't care what the other Commissioners think. He asked Commissioner Weber which it is. Commissioner Weber stated that actually Commissioner Notbohm approached Bruce Wagner about selling the house. Commissioner Lythgoe stated that all Commissioners got an e-mail in the early part of April from the County Attorney suggesting to us as a Commission or Commissioner Weber as Chair, that an appraisal be done on our property and the Wagner property. This was back in April, so unless Commissioner Notbohm doesn't read his e-mail, he was aware that was a request for an appraisal to be done. Commissioner Notbohm stated that he wanted to mention an incident that happened with an e-mail from Matt's office that he should have gotten, and he and Matt went over it. He didn't receive an e-mail on what Commissioner Lythgoe is suggesting. Matt presented the Commission with a copy of the e-mail in question. He stated that the earlier e-mail Commissioner Notbohm noted was sent to his old address, but he double-checked the e-mail regarding the appraisal, and it has the correct address, so he should have received it. Commissioner Notbohm reiterated that he did not receive this e-mail.

Commissioner Lythgoe stated that he has indicated before, all proper procedures were followed as it relates to this particular episode. As a Commission, we decide that we would like to pursue looking at that property and trading land that we own for that property. It is the obligation of the Commission Chair to bring everything to a point where items can be discussed intelligently. He stated that he thinks that this is what has happened over the past several months. Every procedure was properly followed. He feels bad that Commissioner Notbohm feels the way that he does, but he is wrong. He thinks that we need to go forward with this.

Commissioner Weber asked Commissioner Notbohm again for proof that wrongdoing was done. Commissioner Notbohm stated that on July 31<sup>st</sup> we took a vote on this issue, but he just found out about it a day or two prior to that; he didn't know anything about this process. Someone had to be discussing this between the two of them. Commissioner Lythgoe asked what the vote was. Commissioner Notbohm stated that the vote concerned entering a buy-sell agreement with the Wagners. Commissioner Lythgoe asked why this would have to have been discussed anywhere else other than at a Commission meeting. Commissioner Notbohm stated that first, to approve pursuing the purchase, and second, the land came up; that is a whole other issue. He stated that he has another piece of information. The Commission received a letter from Headwaters RC&D regarding hiring Stahly Engineering to do a preliminary engineering study for upgrades to water and sewer on the south campus and the extension of water and sewer service across Highway 69. We agreed to do this some time ago. The reason he voted for this is because we need to do something with that property out there. Jefferson County agreed to pay 18% of the costs, which comes to \$693.18. The fact of the matter is that moving water and sewer over there will increase the value of the property even above what he feels it is worth. He further stated that the County sold the school some property adjacent to the school. The County wasn't able to give the school the lot because they were another government entity. The lot appraised and was sold for \$30,000+. Commissioner Notbohm stated that he has more and could go into a few more instances, but that can come out later; he has lodged a formal complaint. The fact of the matter is, they were all fully aware that this property will go up in value, every one of them. That didn't matter to him; he just wants to see the land remain the property of Jefferson County, because the Road Department needs it. Commissioner Notbohm stated that this stinks to high heaven. Commissioner Weber asked again if Commissioner Notbohm has any evidence; he still

hasn't proved anything or given any evidence. Commissioner Notbohm stated that he has given enough evidence and enough testimony that Commissioners Lythgoe and Weber should be ashamed of themselves.

Commissioner Weber asked Matt if he could speak to any of the legal arguments that Commissioner Notbohm has accused the Commission of. Commissioner Notbohm stated that Matt said that they haven't committed the crime yet, so there is no fault. Matt stated that he and his paralegal spoke to Commissioner Notbohm that morning regarding other issues and this came up. That is why he went back to his e-mail to make sure that Commissioner Notbohm was involved. He knows that it was April 4<sup>th</sup> when he sent the e-mail asking if anyone was looking into the issue, because he had been approached about the possibility of doing a land swap. Matt stated that he has done research regarding the legality of a land swap and it is possible. An appraisal would need to be done if cash would be required to complete the deal. That is what prompted the e-mail of April 4<sup>th</sup>, to ask if someone was going to be working on it. It was his understanding that Bruce Wagner had first consulted with Commissioner Notbohm, then Commissioner Weber came in and he is not sure at what point Commissioner Lythgoe became aware. He stated that he would have to apologize to anyone who feels that they didn't know about it. Matt stated that also back in April, part of the whole process was the indication from Mr. Wagner that he might not be interested in the property unless he could get a variance to have a septic system on the site. This is all proposals on the assumption that perhaps the Commission may go ahead with the sale. As he told Commissioner Notbohm that morning, Bruce could decide today that he doesn't want to go through with the deal. No decision has been made at this time to proceed with the sale. Matt stated that he has found no evidence of an illegal meeting, no unsigned documents. Until the by-sell agreement is put together, which the Commission directed him to negotiate on some time ago, nothing has happened. Matt stated that he made the suggestion to Commissioner Notbohm of how to get past what he feels has occurred, and asked if they started the process fresh if that would help. This would be something for Commissioner Notbohm to consider. Matt stated that he certainly hasn't seen anything going on behind people's back. He knows that Commissioner Weber has worked on it, simply because one Commissioner has to do something to bring a proposal to the remaining Commission, and this is where they have the option to discuss and deliberate and possibly shoot things down. He believes that there has been a lot of discussion on this matter and he approves of it. It is certainly a lot better than previous Commissions when an issue no one knew about would come out and all of a sudden it was done. He would applaud this Commission for taking the time to talk issues over.

Regarding Commissioner Notbohm's concern with the document, he thinks that there is an issue of the document not being stamped in. Documents do need to be stamped in so that everyone can review documents. Need to insure that all three Commissioners have the opportunity to review documents. He stated that he believes that Commissioner Lythgoe and Bonnie Ramey have been discussing ways to make this process better. He sees this as a work in process that is getting better.

Commissioner Notbohm asked about the public's right to know. Matt stated that there have been numerous meetings discussing this and affording the public an opportunity to hear this information, so he doesn't see anything illegal in that. Commissioner Notbohm noted that there have been since July 31<sup>st</sup>, but not before. Matt noted that there was no sale before July 31<sup>st</sup>

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either, and they as a Commission couldn't have done anything before the 31st. Proposals have to come from somewhere, they don't just come from thin air. Matt suggested that e-mails be put in a correspondence folder, so that everyone can be aware of the correspondence and so that the public has access also. This in itself could help in the future. Commissioner Weber stated that the proposal itself actually came from the Wagners. They proposed that we would take the value of their property, subtract the value of our property, pay the difference and go from there. Two appraisals are now in. We haven't heard from the Wagners today in regards to the new appraisal and if they are still interested. Bruce asked, with the written protest, what is the next step to proceed. Matt cited MCA 7-8-2215, *Procedure to challenge appraised value*, and stated that Commissioner Notbohm as citizen Notbohm has presented a written protest. The statute states:

- (1) Any taxpayer who may believe that such appraised value is less than the actual value of the property, may, at any time before the day fixed for the sale of such property, file with the board of county commissioners written objections to such appraised value.
- (2) When any such objection is filed, this vacates the sale and the board must at once apply to the judge of the district court to have such property reappraised.
- (3) (a) Upon such application, the district judge shall appoint for purpose of reappraisal three disinterested persons. Such appraisers, when appointed by the district judge and after filing their appraisal report with the county clerk and recorder, shall be allowed \$5 per day for each day necessarily employed in making such appraisal and their necessary and actual expenses.  
(b) The appraisal of the person appointed under subsection (3)(a) must be made and filed with the county clerk and recorder. The new appraisal or reappraisal shall be used in the next sale of such property.

Matt stated that he can write a letter to the judge and ask that he follow statute in this regard. He would also suggest that the house be included. Commissioner Weber stated that he doesn't see a protest on the appraisal of the house. Matt asked citizen Notbohm if he would challenge the appraisal on the house, because now would be the time to do so. Commissioner Notbohm stated that he does, insomuch as he doesn't feel that the inspection was addressed fully. There are quite a few inadequacies that need to be addressed, so he does oppose the purchase of the house. Matt asked if he opposes the appraisal of the house. Commissioner Notbohm stated that he has no problem with the appraisal figure on the house. Matt stated that Commissioner Notbohm as a citizen won't be challenging the appraisal. Commissioner Notbohm stated that he will not. Commissioner Weber asked, for clarification, if a Commissioner has the ability to protest the action of the Commission. Matt stated that as a Commissioner, their protest would be their vote. But as a taxpayer, that is another option. Commissioner Weber stated that he honors this as a taxpayer. His question was as a Commissioner. From his understanding from before he was a Commissioner, they didn't have the option to basically sue themselves, or protest themselves. Matt stated that Commissioners as an independent party can sue, but as part of the board you

cannot sue yourself as a board; that is his opinion.

Bruce stated that they would accept the second appraisal of the property and requested that they continue with the buy-sell using these numbers. Commissioner Lythgoe asked that the law states three independent appraisers; he would think that it would state review appraisers, if in fact they were going to look at this appraisal. Matt stated that the District Court Judge can review the statute and make his determination. Commissioner Lythgoe stated that if it is a review

appraisal it won't cost a lot of money; if it is three additional appraisals, it will cost a significant amount of money. This is a little bit frustrating to him in that Commissioner Notbohm presents himself as the person that is most fiscally responsible on this Commission, that he would waste that kind of money going forward with this particular activity. Matt stated that the statute isn't very clear; if these three people can do the appraisal themselves without being an appraiser; will be up to the judge to determine. It may not cost much, it just depends on how the judge sets up the format. Commissioner Notbohm stated that the reason he is willing to go forward and cost the county this money is he feels, although he has always been of friendly terms with the Wagners, the fact of the matter is he wouldn't do this for his brother. It is just like up taking \$60,000 to \$80,000 and handing it to them. With the value of that property, that is ridiculous. The deal that is being proposed is a joke.

Commissioner Lythgoe moved to proceed with the buy-sell with the Wagners on this exchange. Commissioner Weber seconded. Commissioner Notbohm stated that he officially is opposed to this purchase based on the inspection and the fact that it has not been addressed. Commissioner Weber read Commissioner Notbohm's protest. Matt stated that he would like to clean up the buy-sell issue; we really can't have one until value has been negotiated. At this point, he himself is not comfortable with any value until we get to the next step. He would ask that we abandon that motion and do a new motion that basically still looks onto going forward on the intention of entering into a buy-sell agreement based upon final appraised values. The motion failed.

Commissioner Lythgoe moved to continue to pursue a property swap with the Wagners, contingent on the review appraisals that the District Court orders. Commissioner Weber seconded. The motion carried, with Commissioner Weber and Commissioner Lythgoe voting aye and Commissioner Notbohm voting nay.

#### DISCUSS AND DECIDE ON CONTINUING WITH NEXT PHASE OF NORTH-END WATER/SEWER DISTRICT

Commissioner Lythgoe stated that he would make a suggestion that we not enter into any kind of agreement until later in the year when we know what we have left in PILT. He feels that it is an important project that we need to pursue. It will take \$60,000 to do the study. Commissioner Lythgoe moved to put this off until later in the fiscal year. Commissioner Notbohm seconded. Commissioner Weber asked Commissioner Lythgoe to research with the state if metal mines money can be used for this, as it would be for infrastructure. The motion carried.

#### DISCUSS AND DECIDE ON PAYING UP TO \$5000 OF COSTS INCURRED BY SADDLE MOUNTAIN SERVICES FOR LOT 15

Commissioner Lythgoe stated that we have had a lot of discussion regarding this, and we all feel bad about what has happened. As mentioned in the last meeting when this was discussed, it seems that every office in the county had the correct address for Saddle Mountain Services, except the Treasurer's Office. The Commission received evidence at the last meeting that the Treasurer's Office did in fact have the correct address prior to all of this happening, as a letter was sent. Gave a brief overview of what happened to get us to this point. Saddle Mountain Services has requested that the County help recover some of the costs incurred in getting the property back. Obviously, there was a wrong done here, and he thinks that the County has at least some obligation to help. Matt stated that his office was involved in the litigation, and



Jefferson County was released. He looked into the matter and there could have been errors made and the way that tax deeds are handled in the future could be looked at. He is not comfortable with the County giving any money outright. His thoughts are that if they, as a Commission, feel that something should be done, it not be the entire amount. We had a settlement, and for them to come back and ask for money after the settlement, just was surprising to him. He does feel their pain financially however. They do have the option to go after the state. Commissioner Weber asked if the State was a party to the suit. Matt stated that he is not sure. Commissioner Lythgoe stated that he hasn't approached our insurance carrier. There is a possibility that some money would come forth from them. Commissioner Weber stated that we were held harmless in the lawsuit, so insurance wouldn't cover. Commissioner Notbohm stated that this was a new fee; he put the suit on the agenda, because he feels that the state created the problem so they should pay for it. Matt stated that he always looks to the future and how to avoid this, and this is something that needs to be addressed. Commissioner Notbohm stated that the Commission needs to go over every one of these, because he never saw this come across his desk.

Commissioner Weber asked Matt to address his understanding of tax deed. His understanding is that if property is sold for tax deed, the original owner has the opportunity to buy back with 10% increase. He asked how it got from \$150 to \$5000. Matt stated that he thinks that the time period had passed, which makes sense if everyone had the wrong address. There is the publication, but this could be easy to miss. Commissioner Lythgoe stated that it was missed because it was posted in the legal paper of record, which is in Whitehall. Matt stated that this is something to be considered when the legal paper is chosen. There was also the added cost of litigation.

Joe Steiner, President of Saddle Mountain Services, stated that a similar thing happened in 1991 with a fee that wasn't paid that had the wrong address. They submitted the right address and everything seemed to be straight, that the Treasurer and Assessor seemed to have the right address. Most of the extra costs were legal fees, theirs, the buyer's and DNRC's. The communication error wasn't theirs, and the 120 landowners have to pay the entire amount so that we can have a storage reservoir for fire protection for a lot of the area in the county. They think that there is some shared responsibility in this. Commissioner Lythgoe stated that he doesn't suggest that we have any legal obligation, but a moral one. Commissioner Lythgoe moved to pay \$2500 from PILT. Commissioner Weber seconded. Commissioner Notbohm stated that he too feels sorry for what happened, but he doesn't feel a responsibility. He has a hard time agreeing with that amount of money. The motion failed, with Commissioner Lythgoe voting aye, and Commissioner Weber and Commissioner Notbohm voting nay. Commissioner Weber moved to pay \$1000 out of PILT. Commissioner Notbohm seconded. The motion carried unanimously.

#### DISCUSS AND DECIDE ON SUING THE STATE OF MONTANA FOR COSTS INCURRED DUE TO SADDLE MOUNTAIN SERVICES

Commissioner Notbohm requested that this be withdrawn.

#### RESOLUTION 34-2007 RESOLUTION TO TRANSFER DEDICATED PARKLAND TO THE MONTANA CITY RANCHES COMMERCIAL SUBDIVISION

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Harold Stepper, County Planner, presented the resolution which transfers open space property to the Montana City Ranches Commercial Subdivision. The Resolution of Intent was adopted two weeks ago and has been advertised. Commissioner Notbohm thinks that a letter of opposition just came in. Commissioner Lythgoe stated that he spoke with Beverly Neubel and asked for a written comment, and she responded with an e-mail. (On file in the Clerk and Recorder's office.) She is requesting that the Commission deny the resolution, because she feels that the public benefit would be far greater if this property would remain in the possession of Jefferson County. She stated that Rattlesnake Hill is a prominent landmark in Montana City and a favorite hiking spot. She feels that by keeping this land in the public domain, there would be the opportunity for the improvement of the trails and the possibility of adding recreation opportunities to the hill.

Harold stated that he has also spoken with her. He told her that the intent was to get the land back on the public tax rolls. As the ground lays now, the portion of Rattlesnake Butte that is dedicated as parkland abuts the highway right-of-way, so there is still access to it. It has to remain dedicated as park ground and has to be open as such. There is no way to close. Commissioner Weber asked if he foresees parking situations in the future. Harold stated that can't access from the business side, but would have to be from the highway. Commissioner Lythgoe stated that from his phone conversation with Beverly, her big concern is that if we transfer this to the business owner's association, they won't do anything with it. If we leave it in the ownership of the county, there may be potential to develop the parkland to a greater degree. She also feels that the public will have better access and better opportunities for grant monies if it stays with county. Most parklands, she would agree need to go to homeowners, but with this particular land, feels that the county would be a better steward.

Commissioner Notbohm asked how the parkland came to be in the county's name. Harold stated that the developer deeded it to the county, rather than to the homeowner's association. Commissioner Notbohm asked if there would be any access to the public. Harold stated that there is access from the highway right-of-way. To his knowledge, he has never seen anyone on top of the hill, and he isn't sure how much use it will get. The property won't generate a lot of revenue, but will bring something into the coffers. Commissioner Notbohm noted that we are trying to get rid of parkland. Commissioner Lythgoe stated that he would agree in most cases, but not so sure in this instance. Most of the parkland that we own is a gully, full of weeds, that isn't usable. He thinks that this is a little bit more unique property than most that we own. He isn't so sure that we shouldn't hang on to it. Commissioner Weber stated that an easy way to deal with this is to put off the decision and allow Ms. Neubel the opportunity to gather support for her position. Commissioner Notbohm stated that his only concern with this is that unless there is some adequate parking, they will be encroaching on the businesses. Harold stated that they would more than likely be encroaching on the highway right-of-way if they drive there. Commissioner Weber asked if there is potential for a trail head. Harold stated that there are several ways to get there.

Commissioner Lythgoe moved that we give them a hearing on this and reagendaize this and give them an opportunity to discuss the issue. Commissioner Weber seconded, and suggested that an evening meeting would be a good option. The motion carried.

## DISCUSS AND DECIDE ON FACILITIES' REQUEST FOR PILT FOR PARADIS HOUSE RE-ROOF

Cathi Bond, Facilities Manager, stated that there are shingles coming off of the roof of the Paradis House. A recent wind storm took off more. She would like to get done before winter. She sent bids to five companies, and got bids from two. The bid asked for bids for both shingles and metal. Cathi stated that she also contacted our insurance carrier this morning, and is waiting to hear from the adjuster. She would still like to ask for money from PILT. Commissioner Notbohm asked when she will hear back from the insurance company. Cathi stated that she called that morning, and the adjuster will be here in a couple days.

Commissioner Weber suggested that we move this forward to the next two meetings. Cathi asked if she could get approval for the money now, so that the project can move forward. Commissioner Notbohm stated that we can go ahead and get reimbursed if we can.

Commissioner Notbohm moved to approve the use of up to \$4,700 of PILT for the re-roofing of the Paradis house. Commissioner Weber seconded. The motion failed. Commissioner Notbohm moved to approve the use of up to \$3,700 of PILT for the re-roofing of the Paradis house. Commissioner Weber seconded. The motion carried.

## AWARD BID FOR PARADIS HOUSE RE-ROOF

Commissioner Weber stated that four bids have been received as follows:

Company	Asphalt shingles	Metal roof
Whiting Construction	\$3,700	\$4,700
Diamond Construction	\$8,650	\$9,800

Commissioner Lythgoe moved to award the bid to Whiting Construction for asphalt shingles. Commissioner Weber second. The motion carried.

## DISCUSS CLERK AND RECORDER'S RECOMMENDATION REGARDING INFORMATION TRACKING IN THE COMMISSION OFFICE

Commissioner Lythgoe stated that he and Bonnie have discussed this somewhat, mostly in regards to the minutes going through the office. Any time more than one Commissioner is involved, minutes need to be taken. There are also some action items that come through the mail that need to be dealt with in a timely fashion. At times, not all three Commissioners are in the office, and he and Bonnie discussed how to keep the flow going. What they came up with, is if within a certain period of time, such as three days, if items have two signatures and the third Commissioner has not had the time to review for whatever reason, items need to be moved forward. That will help to clear up the bottleneck that occurs in the office at times. Some items can wait, but there are some items that need to have action taken more quickly. Bonnie has been taking minutes at road meetings. She will type them up, get corrections, and then won't get them back for weeks. They need to do something to keep this from happening. The suggestion is moving things forward after three days, no matter what it is, as long as two Commissioners

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have signed it. Kellie Doherty asked who will determine what is a priority item and what isn't; she feels that this needs to be addressed. Commissioner Lythgoe stated that he and Bonnie discussed this. Action items would go into a separate folder for immediate action; staff will have to make a judgment call on this. If he had the folder, after reading the contents he will give it directly to another Commissioner rather than sticking it into a mailbox. Kellie stated that she feels it is a good idea, but need to make some clear steps; this will take a lot of organization. Commissioner Lythgoe stated that he would be willing to take the responsibility to gather the action items and move them forward.

Commissioner Notbohm stated that this will need some more discussion and he would like Bonnie to be available. The way they have been doing it has been working pretty well for the most part. If someone sees a sensitive item, there is a mailbox on the top for action items. He feels that we need to reagentize this and discuss it more. Commissioner Weber stated that it does need more discussion, but not sure that Bonnie has to be involved. It sounds like she has given her input. Commissioner Notbohm stated that it is important for Bonnie to be involved because as Clerk and Recorder, it is her job to make sure that proper records are kept. What we do can affect her office. Commissioner Weber agreed with this, but noted that it sounds like Bonnie has already given her input, and that is the three-day turnaround. Jan stated that if they are going to implement this policy, will be extremely important that dates be put on things, when it came in and when it moved on. Otherwise, she is sure that she will be hearing statement to the effect of "I was here and I didn't see it". Commissioner Weber stated that this is the biggest concern that he has, that they will hear "I didn't see it, it was held from me, it was withdrawn". Commissioner Lythgoe stated that one solution would be that a copy be made with the two signatures so that the third Commissioner can be informed. Commissioner Lythgoe stated that this can be put on a future agenda, but feels that many things can be implemented now. He feels that copy to the third Commissioner is important.

Commissioner Notbohm moved to go forward with this on a temporary basis, until can be put on a future agenda. Commissioner Lythgoe seconded. It was decided that the first Commissioner to see items will make determination to move forward quickly. The motion carried.

#### OPPORTUNITY FOR PUBLIC COMMENT

Jan Anderson stated that the Commission had discussed at one point that all legal notices would be run in all papers. It came to her attention this week that a legal ad for a sheriff sale has not been submitted to the *Monitor* or *Courier*. She is wondering if this is the policy or not. Commissioner Weber stated that this could have potentially helped us with the Saddle Mountain Services situation. He doesn't think that they ever voted to do that; it was suggested. Commissioner Lythgoe stated that this is an administrative item that they could deal with now. It was noted that this could impact several department's budgets significantly. This will be added to a future agenda.

Commissioner Lythgoe stated that the bonds for the Saddle Mountain RID haven't been sold yet and money won't be coming in to the county until sometime in November. The contractor will need to be paid, and will be asking for in excess of \$100,000. We need to put on next week's

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agenda to discuss and decide on floating a loan until the money comes in to pay the contractor.

Commissioner Lythgoe moved to adjourn. Commissioner Notbohm seconded. The motion carried.

**MEETING ADJOURNED**

**ATTEST:**

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**BONNIE RAMEY  
CLERK AND RECORDER**

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**KEN WEBER, CHAIR**

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**TOMAS E. LYTHGOE, COMMISSIONER**

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**CHUCK NOTBOHM, COMMISSIONER**